

**1999**

(REV. 1998)

# INSTRUCTIONS FOR FORM U-6

## PUBLIC SERVICE COMPANY TAX RETURN

(Public Service Company Tax Law, Chapter 239, HRS)

**CAUTION:** THIS RETURN IS TO BE BASED ON OPERATIONS FOR THE PRECEDING TAXABLE YEAR BEGINNING IN 1998. HOWEVER, SEE BELOW "Special Rules" FOR TAXPAYERS REPORTING THEIR FIRST YEAR OR SECOND YEAR OF DOING BUSINESS.

### Where To Get Tax Forms. —

Hawaii tax forms, instructions, and schedules may be obtained at any taxation district office or through the following:

**Web site Address:**

<http://www.state.hi.us/tax/tax.html>

**Forms and CD-ROM by mail:**

(808) 587-7572

Toll-Free: 1-800-222-7572

**Forms by fax:**

On Oahu (808) 587-7572

Outside Oahu (808) 678-0522 from your fax machine

### Changes You Should Note. —

- Pursuant to Act 91, Session Laws of Hawaii (SLH) 1995, and effective June 7, 1995, public service companies no longer can claim the Enterprise Zone Tax Credit.
- The exemption from the imposition of the Public Service Company Tax of the gross income of any contract carrier by water which is engaged primarily in the business of transporting persons between harbors or wharves of the various counties for interisland cruises within the State, which was applicable for the period of July 1, 1981 to June 30, 1996, is no longer available.
- Effective June 22, 1998, Act 125, SLH 1998, amends certain Public Service Company Tax provisions by: (1) excluding tour packagers from the definition of "carrier"; (2) amending the definition of "gross income" to allow motor carriers to pay the public service company tax only on their portion of gross receipts received through arrangements with other motor carriers; (3) amending the definition of "gross income" to exempt worthless accounts; and (4) defining "motor carrier" to include the transportation of passengers.
- Effective with the filing of your 1999 tax return and thereafter, you are now required to enter your PUC Number on the Form U-6.

### The Nature of the Tax. —

The public service company tax is in the nature of a property tax and is measured by a percentage of the company's gross income from the public service company business earned during the company's preceding taxable (operational) year. The imposition of the tax uses as a measure, the previous year's gross income from public service company business, but is not being imposed for the previous year. For example, a Public Service Company Tax Return for the calendar year 1999 is filed for the tax imposed on January 1, 1999, and is due on April 20, 1999. The tax is calculated by using the company's gross income from public service company business earned during the 1998 calendar year.

For public utilities, the tax is a means of taxing the real property (owned by the public utility or leased to it by a lease under which the public utility is required to pay the taxes upon the property), and the personal property of a public utility, tangible and intangible, including going concern value. The tax is in lieu of all other taxes except income taxes, county vehicular taxes, public utility fees, public utility franchise taxes, use or consumption taxes, and employment taxes.

For motor carriers, common carriers by water, and contract carriers other than motor carriers the tax is a means of taxing the personal property of the carrier, tangible and intangible, including going concern value. The tax is in lieu of the general excise tax but is not in lieu of any other tax.

**Note:** Public utility companies, as defined below, are liable for both the public service company tax and the public utility fee. The public service company tax is administered by the Department of Taxation and the public utility fee is administered by the Public Utilities Commission (PUC). Accordingly, the public utility fee shall be paid to the PUC in the form and manner prescribed by the PUC.

### Definition of Certain Terms Used in Chapter 239, HRS. —

**"Carrier"** means a person who engages in transportation, and does not include a person such as a freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation.

**"Contract carrier"** means a person other than a public utility or taxicab which, under contracts or agreements, engages in the transportation of persons or property for compensation, by land, water, or air.

**"Gross income"** means the gross income from public service company business as follows:

- (1) Gross income from the production, conveyance, transmission, delivery or furnishing of light, power, heat, cold, water, gas or oil;
- (2) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity, by land or water or air:
  - (a) Originating and terminating within this State;
  - (b) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected; or
  - (c) By means of plant or equipment located in the State, between points in the State; or
- (3) Gross income from the transportation of freight by motor carriers (other than as stated in (2) above), or the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in (2) above.) (See **Who Must File Form U-6**, for other lines of business not subject to public service company tax.)

The words "gross income" and "gross income from public service company business" shall not be construed to include dividends (as defined by Chapter 235, HRS) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance or managerial services by one member of an affiliated public service company group to another member of the same group. "Affiliated public service company group" means an affiliated group of domestic corporations within the meaning of Chapter 235, HRS, all of the members of which are public service companies. "Member of an affiliated public service company group" means a corporation (including the parent corporation) which is included within an affiliated public service company group.

Where the transportation of passengers or property is furnished through arrangements between motor carriers, and the gross income is divided between the motor carriers, and any public service company tax shall apply to each motor carrier with respect to each motor carrier's respective portion of the proceeds.

Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency

or tour packager on the other hand, and any public service company tax shall apply to each person with respect to each person's respective portion of the proceeds. As used in this paragraph "tourism related services" means motor carriers of passengers regulated by the public utilities commission.

Accounts found to be worthless and actually charged off for income tax purposes, at corresponding periods, may be deducted from gross income so far as they reflect taxable sales, but shall be added to gross income when and if subsequently collected.

**"Home port"** means the place where vessels have their tax situs or principal tax situs.

**"Motor carrier"** means a common carrier or contract carrier transporting persons or property for compensation on the public highways, other than a public utility or taxicab.

**"Net operating income"** of a public utility subject to the tax imposed by section 239-5(a), HRS, is the operating revenues less the operating expenses and tax accruals, including in the computation of such revenues and expenses, debits and credits arising from equipment rents and joint facility rents. In the event that, but for this sentence, deductions could not be had for expenses of services because such services were rendered by the same person or persons constituting the public utility or could not be had for income taxes, because such taxes were levied against the person or persons constituting the public utility in the person's or their individual capacity and not as a separate entity, there nevertheless shall be allowed as deduction in computing the net income (A) a reasonable allowance for the value of personal services actually rendered, and (B) such proportion of the actual amounts of income taxes, federal and state, as fairly represents the portion of the income so taxed which was derived from the public utility business.

**"Partner"** means the same as in the Internal Revenue Code.

**"Partnership"** means the same as in the Internal Revenue Code.

**"Ports", "airports", or "points in the State"** shall be deemed to be such if they are loading, unloading, transshipment, assembly, transfer, or relay points.

**"Public highways"** has the meaning defined by section 264-1, HRS, including both state and county highways, but operation upon rails shall not be deemed transportation on public highways.

**"Public service company"** means a public utility, motor carrier, or contract carrier.

**"Public utility"** has the meaning given that term in section 269-1, HRS.

**When Is the Public Service Company Tax Imposed. —**

In the first year of doing business, the tax is imposed on the first day, or commencement date, of the public service company's business. Thereafter, the tax is imposed or assessed on the first day of the public service company's selected year. Therefore, for a public service company on a calendar year basis, the tax is imposed on January 1 of each year; and for a fiscal year basis public service company, it is imposed on the first day of the selected fiscal period. The public service company tax is not accrued or imposed incrementally throughout the calendar or fiscal year.

**Who Must File Form U-6. —**

Each public service company shall file Form U-6, showing its taxable gross income for the preceding taxable year. In case any public service company carries on lines of business other than its public service company business, the receipts therefrom shall not be subject to public service company tax, but the same tax liabilities shall attach to such public service company on account of such other lines of business as would exist if no public service company business were done.

**When Is the Form U-6 To Be Filed. —**

In the first year of doing business, the Form U-6 is due on the twentieth day of the third month after the month the public service company begins business. Thereafter, the return shall be filed on or before the twentieth day of the fourth month following the close of the preceding taxable (measurement) year. For a calendar year basis taxpayer, the return is due on or before April 20, of each return year.

If you know that you are unable to meet the filing deadline, you should ask for an extension on Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. This is an extension of time to file, not an extension of time for payment of tax.

**Note:** If any date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.

**When Is the Tax Payable. —**

In the first year of doing business, the payment of tax is due on the twentieth day of the third month after the month that the public service company begins business. Thereafter, the tax is payable on or before the twentieth day of the fourth month following the close of the preceding taxable (measurement) year. Stated differently, the tax is due on or before the twentieth day of the fourth month following the imposition date. This date coincides with the due date of the Form U-6.

The public service company may elect to pay the tax due in four equal quarterly installments on or before the twentieth day of the fourth, sixth, ninth, and twelfth months following the close of the preceding taxable year. However, if the total tax liability exceeds \$100,000, the tax due is payable in twelve equal monthly installments on or before the tenth day of each month following the close of the preceding taxable year. Installment payments of the public service company tax are reported and paid on Form FP-1. If any installment is not paid on or before the date fixed for its payment, the Department of Taxation, at its election may cause the balance of the tax unpaid to become payable upon not less than ten days' notice and demand, and this amount shall be paid upon the date so fixed in the notice and demand from the Department.

**Note:** If any date falls on a Saturday, Sunday, or legal holiday, substitute the next regular workday.

**Where to File the Return or Call for Tax Information.—**

| If the principal office of the organization is located in the | Send the return to or call the following Hawaii Taxation District Office  |
|---|---|
| City and County of Honolulu                                   | Oahu District Office<br>P. O. Box 3559<br>Honolulu, Hawaii 96811-3559<br><br>Telephone: (808) 587-4242<br>Toll-Free: 1-800-222-3229 |
| Counties of Maui and Kalawao                                  | Maui District Office<br>P. O. Box 913<br>Wailuku, Hawaii 96793-0913<br><br>Telephone: (808) 984-8500                                |
| County of Hawaii  | Hawaii District Office<br>P. O. Box 1377<br>Hilo, Hawaii 96721-1377<br><br>Telephone: (808) 974-6321                                |
| County of Kauai   | Kauai District Office<br>P. O. Box 1688<br>Lihue, Hawaii 96766-5688<br><br>Telephone: (808) 274-3456                                |

**Application of the Tax.—**

**Special Rules.**

1. The first year of doing business.
  - a. A company in business on January 1 or at the start of the fiscal year, but not in business during any part of the preceding calendar or fiscal year, respectively:
    - (1) Form U-6 is filed by using an estimate of the gross income from the public service company business for the first year that the company is engaged in business .
    - (2) The tax is at the rate provided by sections 239-5 and 239-6, HRS, except that the formula (the ratio of the net income to the gross income being in excess of 15%) applicable to utilities subject to section 239-5(a), HRS, does not apply.
    - (3) The return and payment of the tax is due on the twentieth day of the third month after the month that the company begins business.

- (4) The estimate must be corrected to reflect the actual gross income for the year via an amended return which must be filed by the twentieth day of the fourth month following the close of the first taxable year. The amended return is used to claim the appropriate overpayment or pay any additional tax due.
- b. A company not in business on January 1 or at the start of the fiscal year, but business is commenced during the calendar year or fiscal year, respectively:
  - (1) Form U-6 is filed by using an estimate of the gross income from the public service company business for that portion of the first year that the company is engaged in business.
  - (2) The tax is at the rate of 4%.
  - (3) The return and payment of the tax is due on the twentieth day of the third month after the month that the company begins business.
  - (4) The estimate must be corrected to reflect the actual gross income for the year via an amended return which must be filed by the twentieth day of the fourth month following the close of the first taxable year. The amended return is used to claim the appropriate overpayment or pay any additional tax due.
2. The second year of doing business.
  - a. Form U-6 is filed using an estimate of the company's average monthly gross income during the period from and after the commencement of business to the close of the second year, multiplied by twelve.
  - b. The tax is at the rates provided by sections 239-5 and 239-6, HRS, except that the formula (ratio of net income to the gross income being in excess of 15%) applicable to utilities subject to section 239-5(a), HRS, does not apply.
  - c. The return and payment of tax is due on the twentieth day of the fourth month following the close of the company's first taxable year.
  - d. An amended return is required to adjust the estimate to the actual average monthly gross income during the period from and after the commencement of business to the close of the second year, multiplied by twelve. Any overpayment is claimed or balance due is reported and paid on the amended return. The amended return is due on or before the twentieth day of the fourth month following the close of the company's second taxable year.
3. The third year of doing business.
  - a. Form U-6 is filed using the company's gross income from the second taxable year.
  - b. The tax is at the rates provided by sections 239-5 and 239-6, HRS.
  - c. The return and payment of tax is due on the twentieth day of the fourth month following the close of the company's second taxable year.
  - d. Since the tax is not based on an estimate, no amended return is required.

### **Allocation and Apportionment.—**

In the event a public service company is engaged in interstate or foreign commerce and an apportionment of gross income is necessary, section 239-8, HRS, provides for an apportionment on the basis of total direct cost of the transportation, conveyance, or transmission within the State. "Direct cost" is interpreted to mean and include payroll or labor hired for the handling and transportation of property or persons from the point of origin to the point of destination, payroll taxes attributable to such payrolls, materials used or consumed by the taxpayer in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of any rent on leased equipment which is attributable to the use of such leased equipment in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of depreciation on equipment owned by the taxpayer which is attributable to the use of such equipment in the handling and transportation of property or persons from the point of origin to the point of destination, that portion of the maintenance and upkeep of equipment which is attributable to the use of such equipment in the handling and transportation of property or persons from the point of origin to the point of destination, overload and ocean freight, and insurance.

### **Acquiring the Business of Another Company. —**

Subsection (f) of section 239-9, HRS, relates to the acquisition by one public service company of the business of another and provides for treating the gross income of the company so acquired the same as if it were gross income of the

acquired company, that is, the gross income to be reported by the acquiring company for the purpose of determining the amount of its tax for the year following the year in which such business was so acquired shall include, in addition to the gross income of the acquiring company during the year ending December 31 preceding, the gross income of the business or part thereof so acquired for such portion of such preceding year.

### **Consolidation or Merger.—**

Subsection (g) of section 239-9, HRS, relates to the consolidation or merger of public service companies and provides that the liability to the tax shall attach to the company thus formed and the company thus formed shall include in its gross income, the gross income of the companies involved in the consolidation or merger.

### **Changing Accounting Period From Calendar Year to Fiscal Year.—**

The amount of the public service company tax which is assessed for the calendar year and the payment schedule for the tax that is established at the beginning of the calendar year are not affected or canceled when a company changes its accounting period to a fiscal year.

A company which changes its accounting period from a calendar to a fiscal year is subject to the following requirements:

1. Submit a written request for a change in the accounting period which is approved by the Department of Taxation.
2. File Form U-6 for the new accounting period. The original Form U-6 reporting taxable gross income for the calendar year and a second Form U-6 reporting taxable gross income for the fiscal year must be filed.
3. Offset the taxable gross income for the duplicated months. To avoid being taxed twice for the duplicated months, an offset for the taxable gross income for the duplicated months will be allowed on the second Form U-6.
4. No carryover of excess amounts. If the taxable gross income for the duplicated months on the original Form U-6 exceeds the monthly taxable gross income on the second Form U-6, the excess amounts shall not be carried over and offset against the income for the unduplicated months on the second Form U-6.

For additional information, see Tax Information Release No. 98-7, "Change in Accounting From Calendar Year to Fiscal Year For Public Service Companies".

### **Terminating Business Operations.—**

Since the public service company tax is imposed and payable in full on the imposition or assessment date, which is on the first day of the public service company's selected year, the termination of business operations during the calendar or fiscal year; other than, as previously discussed, an acquisition by another public service company or by consolidation or merger; does not affect the company's liability for the tax. As such, the company is required to remit the taxes due on the elected payment schedule.

### **Exemption From Real Property Taxes.—**

As provided in section 239-3, HRS, a public utility taxed under the Public Service Company Tax Law shall be exempt from the Real Property Tax Law. In order to secure the exemption, a public utility shall annually file with the county tax assessor on or before December 31 preceding the tax year, a return of such property setting forth its claim to the exemption on Form P-7. The claim may include real property under lease to the public utility, under which lease the public utility is required to pay the taxes upon such property, and such claim to exemption shall be determined the same as if the public utility were the owner of such property.

Further, section 239-5(c), HRS, (relating to sales of products or services by a public utility to another public utility for resale of such products or services) provides that the public utility's exemption from real property taxes imposed by Chapter 246, HRS, shall be reduced by the proportion that its public utility gross income bears to its total public utility gross income.

## SPECIFIC INSTRUCTIONS

### Section I — To Be Completed By Public Utilities, other than motor carriers, common carriers by water, and contract carriers

#### Gross Income From Preceding Taxable Year Beginning in 1998

**Lines 1a(2), 1b(2), and 1c(2) — Worthless Accounts Charged Off for Net Income Tax Purposes.**—This deduction from gross income can only be taken for worthless accounts (bad debts) charged off for net income tax purposes on or after June 22, 1998.

### Section II — To Be Completed By Motor Carriers, Common Carriers By Water, and Contract Carriers

#### Gross Income From Preceding Taxable Year Beginning in 1998

**Line 14 — Gross Income from Motor Carrier, Common Carrier by Water, or Contract Carrier Business.**—Effective June 22, 1998, where the transportation of passengers or property is furnished through arrangements between motor carriers, and the gross income is divided between the motor carriers, include on this line only your portion of the proceeds.

**Line 15 — Worthless Accounts Charged Off for Net Income Tax Purposes.**—This deduction from gross income can only be taken for worthless accounts (bad debts) charged off for net income tax purposes on or after June 22, 1998.

### Section III — Computation of Tax

#### Part I. — Only For Public Utilities Taxed Under Section 239-5(a), (b), and (c), HRS.

In the case of a public utility generally taxed under section 239-5(a), HRS, the rate of tax upon the gross income each year from its public utility business shall be determined as follows: If the ratio of net income of the company to its gross income is 15% or less, the rate of tax is 5.885%. For every 1% increase in the ratio over 15%, there shall be a corresponding increase of .2675% in the rate of tax. See section 239-9(c) and (d), HRS, for exceptions to the above rate formula if a public utility is in its first or second year of operation. (If the gross income is apportioned under section 239-8(b) or (c), HRS, the rate of tax shall be 5.885%.)

Public utilities taxed under section 239-5(a), HRS, shall use Form U-6, page 2, Part I to compute the tax due. However, it will be necessary to first complete the items of gross income and deductions on page 1 before using Part I.

**Line E — Credit for Lifeline Telephone Service Subsidy.**—Section 239-6.5, HRS, provides that a telephone public utility subject to Chapter 239, HRS, that has been authorized to establish a lifeline telephone service rate by the public utilities commission shall be allowed a tax credit equal to the lifeline telephone service costs incurred by the utility company, such credit shall be applied against the telephone utility's tax imposed by Chapter 239, HRS. The amount of the credit shall be determined and certified annually by the public utilities commission.

**Line G — Payment with Extension.**—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

**Line H — Tax Installment Payments.**—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.

#### Part II. — For Public Utilities Taxed Only Under Section 239-5(b), HRS.

In the case of a public utility taxed under section 239-5(b), HRS, (relating to carriers of passengers by land which consists in passenger fares on scheduled routes), the rate of tax shall be 5.35%. However, if such carrier has other public utility gross income, the passenger fares nevertheless shall be included in determining the rate of tax upon the other public utility gross income.

Public utilities taxed under section 239-5(b), HRS, shall report such public utility gross income on Form U-6, page 1, lines 1a(1) through 1a(3), and then use page 2, Part II, to compute the tax due. All other items and schedules may be disregarded unless other public utility gross income under section 239-5(a), HRS, is involved.

**Line B — Payment with Extension.**—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

**Line C — Tax Installment Payments.**—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.

#### Part III. — For Public Utilities Taxed Only Under Section 239-5(c), HRS.

In the case of a public utility taxed under section 239-5(c), HRS, (relating to sales of products or services to another public utility which resells such products or services), the rate of tax shall be 1/2%. However, if such public utility has other public utility gross income, the gross income from the sale of its products or services to another public utility shall be included in determining the rate of tax upon the other public utility gross income.

Public utilities taxed under section 239-5(c), HRS, shall report such public utility gross income on Form U-6, page 1, lines 1b(1) through 1b(3), and then use page 2, Part III, to compute the tax due. All other items and schedules may be disregarded unless other public utility gross income under section 239-5(a), HRS, is involved.

**Line B — Payment with Extension.**—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

**Line C — Tax Installment Payments.**—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.

#### Part IV. — Only For Motor Carriers, Common Carriers By Water, and Contract Carriers Taxed Under Section 239-6, HRS.

In the case of a motor carrier, a common carrier by water, and a contract carrier other than a motor carrier, the rate of tax upon the gross income each year shall be 4%.

Motor carriers, common carriers by water, and contract carriers shall report the gross income from such business on Form U-6, page 1, lines 14 through 16 and then use page 2, Part IV to compute the tax due. All other items and schedules may be disregarded.

**Line B — Payment with Extension.**—Enter the amount of public service company tax paid with Form N-755, Application for Automatic Extension of Time to File Public Service Company Tax Return. Attach a copy of Form N-755 to your tax return.

**Line C — Tax Installment Payments.**—Enter the total amount of public service company tax installments paid up to the date of filing the return. Installment payments of the public service company tax are reported and paid on Form FP-1.